

DEPARTMENT OF SOCIAL SERVICES  
744 P Street, Sacramento, CA 95814



May 9, 1986

ALL-COUNTY LETTER NO. 86-37

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: NOIA v. MCMAHON

This is to inform you that on May 6, 1986 the United States District Court for the Northern District of California issued an order in Noia v. McMahon. A copy of the order is attached. The Noia case was originally filed in Federal District Court on March 27, 1986 with the hearing in this matter having been conducted on May 6, 1986. The order enjoins DSS and the counties from applying EAS 44-111.437 and 44-113.13 while this matter is in litigation. Specifically, non-governmental loans available to meet current needs are not to be treated as income when computing AFDC grants.

An All-County Letter with instructions for implementing the Federal District Court order will be sent within 30 days from receipt of this letter. In the meantime, you are instructed to flag all cases in which, as a result of applying the challenged regulations (EAS 44-111.437 and 44-113.13), AFDC was denied, terminated, or reduced on or after May 1, 1986 due to non-governmental loans available to meet current needs being treated as income.

For your information, DSS requested an additional 30 days to implement the attached order; however, the court determined that the dates proposed by plaintiffs' attorneys were reasonable. The critical dates set forth in the order are:

1. Within 30 days from the date the order was signed, DSS must issue implementing instructions to the counties.
2. Within 60 days from the date the order was signed, the counties must implement the attached order.
3. Within 90 days from the date the order was signed, the counties and DSS must complete compliance reporting.

If you have any questions, please contact Michael O'Brien at (916) 324-2013.

A handwritten signature in dark ink, appearing to read 'Robert A. Horel'.

ROBERT A. HOREL  
Deputy Director

Attachment

FILED

MAY 6 10 30 AM '86

BY DD

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**LODGED**

for Plaintiffs

8 APR 29 1986

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

EASTERN DISTRICT OF CALIFORNIA

BY NOIA LISA MAYO,  
MAJ-BRITT MOBRAND-ROBINSON,  
11 ANNA WILLIAMS,

12 Plaintiffs,

13 v.

14 LINDA MCMAHON, Director  
of the California  
15 Department of Social Services;  
DEPARTMENT OF SOCIAL SERVICES;  
16 JESSE R. HUFF, Director of the  
Department of Finance; DEPARTMENT  
17 OF FINANCE,

18 Defendants.

NO. CIV. S-86-0353 MLS

CLASS ACTION

PRELIMINARY INJUNCTION  
AND ORDER RE CLASS  
CERTIFICATION

DATE: May 6, 1986

TIME: 9:00 a.m.

COURTROOM 3

19 Plaintiffs' motion for a preliminary injunction came on for  
20 hearing on May 6, 1986. Having considered the briefs of  
21 plaintiffs' and defendants' counsel filed therewith, the arguments  
22 of counsel, and all other pleadings on file herein, the court  
23 makes the following findings of fact and conclusions of law:

24 1. Since October 1, 1985, pursuant to Eligibility and  
25 Assistance Standards ("EAS") §§44-111.437 and 44-113.13, as  
26 amended, defendants McMahon and California Department of Social  
27 Services have treated non-governmental loans which may be used  
28

1 for current needs as income for purposes of determining  
2 eligibility for and the amount of benefits paid pursuant to the  
3 Aid to Families with Dependent Children ("AFDC") program;

4 2. Plaintiffs will probably succeed upon their claim that  
5 non-governmental loans are not income within the meaning of 42 U.S.C.  
6 §602(a)(7);

7 3. Plaintiffs will probably succeed upon their claim that  
8 EAS §§44-111.437 and 44-113.13 are inconsistent with 42 U.S.C.  
9 §602(a)(7);

10 4. Plaintiffs will probably succeed upon their claim that  
11 by treating non-governmental loans as income, defendants McMahon  
12 and DSS are violating 45 C.F.R. §§233.10(a)(1), 233.20(a)(1)(i)  
13 and 233.20(a)(3)(ii), in that they have failed to make  
14 determinations of need equitably and objectively, and have failed  
15 to reasonably evaluate income;

16 5. Plaintiffs and the members of the plaintiff class have  
17 suffered and will suffer irreparable harm in the absence of a  
18 preliminary injunction, in that their AFDC grants have been or  
19 will be reduced by the amount of loans which they received,  
20 despite the fact that the loans must be repaid. Reduction of AFDC  
21 grants deprives needy families of the ability to meet subsistence  
22 needs;

23 6. Any harm which defendants McMahon and Department of  
24 Social Services might suffer if they are enjoined during the  
25 pendency of this litigation from applying EAS §§44-111.437 and  
26 44-113.13 is de minimis.<sup>2</sup> Defendants may apply the regulations  
27 which were in effect prior to October 1, 1985, and will receive  
28 full federal financial participation in benefits provided

1 pursuant to this order under 45 C.F.R. §205.10(b)(3);

2        <sup>ms</sup> 7. A ~~preliminary~~ <sup>PRELIMINARY</sup> injunction is in the public interest,  
3 in that it will protect needy children from serious deprivation  
4 and hardship;

5        8. Plaintiffs have raised serious issues of law, and the  
6 balance of hardships tips sharply in their favor. Therefore,

7        IT IS HEREBY ORDERED THAT:

8        1. Defendants McMahon and Department of Social Services,  
9 together with their successors in interest, agents, and  
10 employees, and all persons acting in concert with them, including  
11 the county welfare departments, shall be preliminarily enjoined  
12 and restrained, during the pendency of this litigation, from  
13 applying EAS §44-111.437 and 44-113.13, as amended effective  
14 October 1, 1985 to plaintiffs and to any member of the plaintiff  
15 class, or from treating non-governmental loans as income when  
16 determining eligibility for or the amount of AFDC benefits;

17        2. Defendants shall notify the county welfare departments  
18 within thirty (30) days of the terms of this order; <sup>ms</sup> defendants  
19 may instruct the counties to apply EAS §44-111.437, as it existed  
20 on September 31, 1985, during the pendency of this litigation or  
21 may provide such other instructions as are consistent with this  
22 order; <sup>ms</sup> defendants shall provide plaintiffs' counsel with a copy  
23 of their proposed instructions no later than May 12, 1986;

24        3. No later than the close of business on the third  
25 working day after receipt of this order, <sup>ms</sup> defendants shall notify  
26 the county welfare departments to identify all cases in which  
27 AFDC benefits were or will be denied, reduced or terminated after  
28 May 1, 1986 due <sup>ms</sup> ~~to~~ in whole or in part to application of EAS §44-

1 111.437; <sup>ms</sup> In addition, counties shall be instructed to identify  
2 all cases in which overpayments were or will be incurred due to a  
3 county's failure to apply EAS §44-111.437 in a timely manner;  
4 Defendants shall instruct the counties to identify all such cases  
5 no later than June 1, 1986; <sup>ms</sup> Defendants shall provide a copy of  
6 their instructions to plaintiff's counsel;

7 4. Defendants shall provide benefits, effective May 1,  
8 1986 to all members of the class without regard to non-  
9 governmental loans which they received prior to that date or  
10 thereafter; <sup>ms</sup> In the event that defendants apply EAS §44-111.437  
11 as it existed on September 31, 1985, they shall instruct the  
12 counties to allow class members an opportunity to provide all  
13 documentation required by the terms of that regulation;

14 5. Defendants shall instruct the county welfare  
15 departments to cease recouping any overpayments which occurred as  
16 a result of delayed implementation of EAS §44-111.437, as a  
17 result of aid paid pending an administrative appeal filed by any  
18 class member, or which otherwise resulted from the operation of  
19 EAS §44-111.437; <sup>ms</sup> This paragraph shall be implemented effective  
20 May 1, 1986;

21 6. Defendants shall require all counties to implement this  
22 order promptly, and to complete implementation no later than  
23 sixty (60) days from the date of this order; <sup>ms</sup>

24 7. Within ninety (90) days from the date of this order,  
25 defendants shall file and serve a report showing what each county  
26 has done to comply with this injunction, and the date upon which  
27 each county completed its compliance.

28 This preliminary injunction may issue without bond.

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SO ORDERED.

Dated: May 6, 1986

Amelia H. Schumacher  
UNITED STATES DISTRICT COURT JUDGE